

ATTACHMENT 10
Letter from Governor Greg Abbott to
President Joseph R. Biden, Jr.
(July 24, 2023)



GOVERNOR GREG ABBOTT

July 24, 2023

The Honorable Joseph R. Biden, Jr.
President of the United States
The White House
1600 Pennsylvania Avenue NW
Washington, D.C. 20500

Dear President Biden:

In a late-night letter sent to me last Thursday, your lawyers at the Department of Justice threatened to sue the State of Texas over the floating marine barriers we have deployed in the Rio Grande River in Eagle Pass. Texas will see you in court, Mr. President.

In accordance with Article I, § 10, Clause 3 of the U.S. Constitution, I have asserted Texas's "sovereign interest in protecting [her] borders." *Arizona v. United States*, 567 U.S. 387, 419 (2012) (Scalia, J., dissenting). I have done so in my role as the commander-in-chief of our State's militia under Article IV, § 7 of the Texas Constitution. *See Abbott v. Biden*, 70 F.4th 817, 845 (5th Cir. 2023) (Oldham, J.) (holding that "the *Constitution* forbids President Biden from bypassing the States[and] stepping into Governor Abbott's shoes"). Your ongoing violation of Article IV, § 4 of the U.S. Constitution has left me no other choice.

All of these facts should be familiar, as they were laid out clearly in the three-page letter I sent to you on November 16, 2022. Then on January 8, 2023, I reiterated my point when I hand-delivered another letter to you on the El Paso tarmac during a tour of the border disaster you created: "All of this is happening because you have violated your constitutional obligation to defend the States against invasion through faithful execution of federal laws." Instead of belaboring our respective constitutional roles a third time, I am enclosing copies of my prior letters.

With all that in mind, your lawyers' claim that Texas's floating marine barriers violate Section 10 of the Rivers and Harbors Act misses the mark. In that statute, Congress decreed that "it shall not be lawful to build . . . any wharf, pier, dolphin, boom, weir, breakwater, bulkhead, jetty, or other structures in any . . . water of the United States." 33 U.S.C. § 403. To state the obvious, that statute does not describe any action by the State of Texas.

But Texas's action is a side issue. The fact is, if you would just enforce the immigration laws Congress already has on the books, America would not be suffering from your record-breaking level of illegal immigration.

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While I share the humanitarian concerns noted in your lawyers' letter, Mr. President, your finger points in the wrong direction. Neither of us wants to see another death in the Rio Grande River. Yet your open-border policies encourage migrants to risk their lives by crossing illegally through the water, instead of safely and legally at a port of entry. Nobody drowns on a bridge.

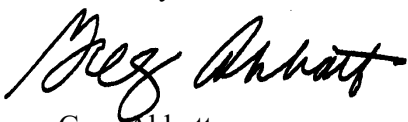
It has been under your watch that migrants have suffered an unprecedented crisis of inhumanity:

- Two years before Texas deployed the floating marine barriers, and a year before it deployed concertina wire, a United Nations agency declared that the border between the United States and Mexico is the deadliest land crossing in the world, with 728 migrant deaths recorded in 2021.
- Before Texas took the action about which you now complain, hundreds of migrants drowned in the Rio Grande River trying to cross the border illegally.
- Before Texas took the action about which you now complain, 53 migrants who illegally crossed the border died in the back of an 18-wheel tractor trailer near San Antonio.
- Before Texas took the action about which you now complain, thousands of Americans lost their lives to the fentanyl that pours across our border daily.

If you truly care about human life, you must begin enforcing federal immigration laws. By doing so, you can help me stop migrants from wagering their lives in the waters of the Rio Grande River. You can also help me save Texans, and indeed all Americans, from deadly drugs like fentanyl, cartel violence, and the horrors of human trafficking.

To end the risk that migrants will be harmed crossing the border illegally, you must fully enforce the laws of the United States that prohibit illegal immigration between ports of entry. In the meantime, Texas will fully utilize its constitutional authority to deal with the crisis you have caused.

Sincerely,



Greg Abbott
Governor

GA:jsd

cc: The Honorable Merrick B. Garland, U.S. Attorney General
The Honorable Angela Colmenero, Provisional Attorney General of Texas
The Honorable Jane Nelson, Secretary of State of Texas
Colonel Steven C. McCraw, Director, Department of Public Safety
Major General Thomas M. Suelzer, Adjutant General, Texas Military Department